REMARKS/ARGUMENTS

Claims 1-20 are present in the application. Claims 1-10, 13-16, 18 and 20 have been withdrawn from consideration. Claims 11, 12, 17 and 19 are rejected. Applicants respectfully request that the claims be reconsidered in view of the Amendment.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, due to the typographical error "50 10 kd". Applicants note that in the non-compliant amendment dated December 18, 2008, Applicants sought to amend claim 17 to correct the typographical error, thereby rendering the rejection under 35 U.S.C. 112, second paragraph, moot. Applicants further note that this amendment was erroneously omitted from the Amendment dated June 8, 2009, which was filed to correct the non-compliant response dated December 18, 2008.

Claim 11 is rejected under 35 U.S.C. 102(b) in view of Charbonneau (US 4,230,817). Applicants again note the non-compliant response dated December 18, 2008, wherein amendment of claim 11 was sought to delete the hydroxybenzoic acid monomers. Applicants again note that this amendment was erroneously omitted from the Amendment dated June 8, 2009, which was filed to correct the non-compliant response dated December 18, 2008.

Based on the foregoing Applicants respectfully request that the Amendment to claims 17 and 11 be entered and that the rejections to claim 17 under 35 U.S.C. 112, second paragraph, and to claim 11 under 35 U.S.C. 102(b) in view of Charbonneau are rendered moot. Accordingly, Applicants respectfully request that those rejections be withdrawn.

Claims 11, 12, 17 and 19 stand rejected under 35 U.S.C. §103(a) as obvious over US Patent No. 5,744,125 to Pawelek et al. in view of US Patent No. 4,714,609 to Carden. Applicants respectfully traverse.

The Office Action indicates that the prior art teaches using vanillin and aloin. Applicants respectfully disagree.

Pawelek discloses cosmetic melanins of different colors produced by oxidative polymerization of monomeric precursors of melanin and/or comonomers that enhance substantivity or adherence of the melanins to the skin or hair. The cosmetic melanins are said to produce a "natural-appearing" tan (Abstract). Compositions according to Pawelek comprise a "tan-producing" effective amount of the melanin polymer when applied to the skin (Col. 2, lines

59-62). As such, exposure to sun is not required to produce a "tanning" effect. Monomers said to provide such "tan-producing" effect are said to be aromatic compounds having an ionizable side group, including those listed at Col. 2, lines 26-34 of Pawelek. Applicants respectfully note that vanillin is conspicuously absent from those monomers said to provide the "tan-producing" effect. Monomers said to enhance protection from ultraviolet light or to enhance adherence to the skin are listed at Col. 2, ll 41-43 of Pawelek. Applicants note that vanillin also is conspicuously absent from this list. As such, Applicants respectfully submit that, while Pawelek considers various monomeric compounds useful for providing a natural tan-producing effect and/or to enhance protection of the skin and/or adherence of tan-producing compositions to the skin, vanillin is neither suggested nor taught as a monomer useful for any of these functions. In fact, Applicants would submit that the conspicuous absence of vanillin from Pawelek teaches away from such use and that it would not be obvious to one skilled in the art to utilize vanillin in compositions as claimed by Applicants.

Carden discloses skin tanning compositions that utilize monomeric vanillin to react with proteins in the human epidermis when exposed to the sun's rays (Abstract). According to Carden, vanillin accelerates tanning when exposed to sunlight. As noted in Carden, vanillin is able to react with the free amine groups in the skin when the skin is exposed to sunlight, thus providing accelerated tanning (Col. 2, lines 4-12). However, Applicants respectfully submit that Carden does not suggest polymerizing vanillin, let alone copolymerizing vanillin with other monomers. In fact, due to the requirement that vanillin must react with the free amine groups in the skin, Applicants respectfully submit that Carden teaches away from using polymeric vanillin, whether in homopolymers or co-polymers. Furthermore, Carden does not teach forming highly-absorbing copolymers of vanillin and their suitability for darkening the skin (*e.g.*, without exposure to sunlight).

In support of the argument of non-obviousness with respect to the use of vanillin, Applicants have actually shown that a vanillin homopolymer has very *low* absorbance, more than ten times lower than inventive copolymers (see Polymer 13 and 14 in Table 1 of instant specification as compared with other examples). Thus, firstly, the references do not teach polymerizing vanillin, and secondly, Applicants have provided evidence that polymerized vanillin, in and of itself, is not suitable for darkening the skin. As such, Applicants submit that, at the time of filing, there was no reasonable expectation of success in polymerizing vanillin,

alone or in combination with the other co-monomers recited in Applicants' claimed invention, to form a polymer suitable for darkening the skin without exposure to the sun's rays.

Based on the foregoing, Applicants respectfully submit that claims 11, 12 17 and 19 are patentable over Pawelek in view of Carden, in that neither Pawelek nor Carden, alone or in comgination teach or suggest the use of copolymers of vanillin as claimed by Applicants and, in fact, teach away from such use. Accordingly, Applicants respectfully request that the rejection thereof under 35 U.S.C. 103(a) be withdrawn.

Applicants respectfully submit that the foregoing presents a full and complete response to the outstanding Office Action. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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